United Nations S/AC.49/2009/36

Security Council

Distr.: General
26 August 2009

Original: English

Security Council Committee established pursuant to resolution 1718 (2006)

Letter dated 26 August 2009 from the Permanent Representative of Denmark to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Kingdom of Denmark to the United Nations presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to submit a report on the concrete measures taken by the Government of Denmark pursuant to paragraph 22 of Security Council resolution 1874 (2009) of 12 June 2009 (see annex).

(*Signed*) Carsten **Staur**
Ambassador and Permanent Representative

09-49537 (E) 020909

Please recycle

Annex to the letter dated 26 August 2009 from the Permanent Representative of Denmark to the United Nations addressed to the Chairman of the Committee

Report submitted by Denmark pursuant to paragraph 22 of Security Council resolution 1874 (2009) of 12 June 2009 on the implementation by Denmark of Security Council resolutions 1718 (2006) and 1874 (2009) concerning the Democratic People's Republic of Korea

1. Denmark and the other member States of the European Union (EU) have jointly implemented the restrictive measures against the Democratic People's Republic of Korea imposed by Security Council resolutions 1718 (2006) and 1874 (2009) by taking the following common measures:

- Council Common Position 2006/795/CFSP of 20 November 2006, as amended by Council Common Position 2009/573/CFSP of 27 July 2009 and by Common Decision 2009/599/CFSP of 4 August 2009.

  The Common Position sets out the EU commitment to implementation of all the measures contained in Security Council resolutions 1718 (2006) and 1874 (2009), and provides the basis for specific EU implementing measures within the scope of the resolutions, notably:

  – A complete arms embargo;

  – An export ban on certain other items, in addition to those determined by the Sanctions Committee, which could contribute to nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea;

  – Listing, to be decided by the Council of the EU, of persons and entities subject to visa ban and asset freeze, either by reasons of their promotion or support of programmes of the Democratic People's Republic of Korea as mentioned above or because they provide financial services or other resources that could contribute to those programmes;

  – Enhanced monitoring over the activities of financial institutions within the jurisdiction of EU member States with certain banks and financial entities linked to the Democratic People's Republic of Korea;

  – Additional information requirements for aircraft and vessels transporting cargo to and from the Democratic People's Republic of Korea.

  The Common Decision establishes, for the purpose of the visa ban and the asset freeze, the list of persons and entities in accordance with determinations made by the Sanctions Committee on 24 April and 16 July 2009.

- Council Regulation (EC) No. 329/2007 of 27 March 2007, as amended by Commission Regulation (EC) No. 117/2008 of 28 January 2008 and Commission Regulation (EC) No. 389/2009 of 12 May 2009 and Commission Regulation (EC) No. 689/2009 of 29 July 2009.

The Council Regulation implements in the European Community the ban on exports of goods and technology which could contribute to nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea and on the provision of related services, the ban on procurement of goods and technology from the Democratic People's Republic of Korea, the ban on export of luxury goods to the Democratic People's Republic of Korea, as well as the freezing of funds and economic resources of persons, entities and bodies engaged in or providing support for the said programmes of the Democratic People's Republic of Korea as designated by the Sanctions Committee and the prohibition of making funds or economic resources available to such persons or entities, with certain exemptions as provided for in Security Council resolution 1718 (2006).

Commission Regulation No. 117/2008 amends the Council Regulation by including the list of goods and technology subject to the export and import ban (other than luxury goods) as set out in annex I to the Council Regulation in accordance with determinations made by the Sanctions Committee.

Commission Regulation No. 389/2009 amends the Council Regulation by including entities designated by the Sanctions Committee on 24 April 2009 in the list of persons, entities and bodies subject to the asset freeze as set out in annex IV to the Council Regulation.

Commission Regulation No. 689/2009 amends the Council Regulation by including goods in annex I and persons and entities in annex IV in accordance with determinations made by the Sanctions Committee on 16 July 2009.

Commission Regulation (EC) No. 539/2001 of 15 March 2001 (and its subsequent amendments). This Regulation requires nationals of the Democratic People's Republic of Korea to be in possession of a visa when entering the European Union. With regard to the obligation contained in paragraph 8 (e) of Security Council resolution 1718 (2006), as referred to in paragraph 18 of Security Council resolution 1874 (2009), to prevent the entry into or transit through the territory of the Kingdom of Denmark of the persons designated by the Sanctions Committee or by the Security Council as being responsible for, including through supporting or promoting, nuclear-related, ballistic missile-related and other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea, the Danish Aliens Act empowers the competent Danish authorities to impose the appropriate travel or entry restrictions. The necessary instructions were issued immediately after the designation of such persons by the Sanctions Committee or by the Security Council on 16 July 2009.

2. In addition, the competent Danish authorities will apply the following Danish legislation in implementing the restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council in resolution 1874 (2009) with regard to paragraphs 9, 10, and 18 of resolution 1874 (2009) concerning arms and related materials:

- According to section 7 a of the Danish Weapons Act, it is prohibited to transport weapons of any kind and defence-related material etc. between third countries (i.e. other countries than Denmark), when the recipient

country is listed in the Government Order on Transportation of Weapons etc. between Third Countries. The list includes all countries that are under a United Nations, EU or Organization for Security and Cooperation in Europe arms embargo.

– According to section 7 b (1) of the Danish Weapons Act, it is likewise prohibited, without a specific licence from the Minister of Justice, as a broker to negotiate or arrange transactions that involve the transfer of weapons etc., as defined in section 6, between countries outside the EU. Furthermore, it is prohibited to buy or sell weapons etc., as defined in section 6, as part of a transfer between countries outside the EU, or, as the owner of the weapons etc., to arrange such transfer. According to section 7 b (2) the prohibition does not apply to acts performed in another EU member State or to acts performed outside the EU by persons with permanent residence outside Denmark.

– According to section 6 of the Danish Weapons Act, it is prohibited without a specific licence from the Minister of Justice to export weapons of any kind and defence-related material, etc. Section 6 applies to any situation where items are transferred from Denmark to a third country no matter whether the transfer takes place in relation to export, transit, trans-shipment or re-export. Export licences will not be issued to countries in violation of Security Council resolutions 1718 (2006) and 1874 (2009).

– Violations of the above-mentioned rules are a criminal offence punishable by fine or imprisonment; see Danish Weapons Act, section 10 and, in aggravating circumstances, section 192 (a) of the Danish Penal Code.

• The above-mentioned Council Regulations are binding in their entirety and directly applicable in all member States of the European Union. Regulation (EC) No. 329/2007 requires member States to determine the penalties applicable to infringements of their provisions.

– The penalties determined by Denmark are set out in Danish Penal Code Law No. 1260 of 2007, with subsequent amendments. According to the law, any person who, intentionally or through negligence, contravenes any provisions or prohibitions that may have been provided by law for the fulfilment of the State's obligations as a member of the United Nations shall be liable to a fine or to imprisonment for a term not exceeding four months or, in aggravating circumstances, to imprisonment for a term not exceeding four years. An equivalent provision exists concerning the contravention of EU sanctions.

Copenhagen, 25 August 2009